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OFFICE OF PETITIONS

In re Application of
Michael J. Daneman et al
Application No. 09/712,420
Filed: November 13, 2000
Attorney Docket No. ONX-109

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ON PETITION

This is a decision on the petition filed April 17, 2001, under 37 CFR 1.182, to disregard the declaration filed concurrently with the application and requesting that the Declaration pursuant to 37 CFR 1.63 filed concurrently with the instant petition be treated as an original Declaration submitted subsequent to the filing date accorded to this application.

The petition granted.

The application papers deposited on November 13, 2000, included a specification, a preliminary amendment, and a Declaration pursuant to 37 CFR 1.63. The aforementioned Declaration, however, failed to specifically execute the aforementioned preliminary amendment as required by 37 CFR 1.63(b)(1) and, as such, cannot be considered as part of the original disclosure.

The remedy to have the preliminary amendment to be considered as part of the original disclosure to overcome any forthcoming holding of new matter arising from the lack of execution of the preliminary amendment present on the filing date is by way of a petition under 37 CFR 1.182 to have the USPTO consider the application as having been filed without an original declaration, and for applicant to supply a supplemental declaration that executes both the application papers and the amendment filed on the same date by specifically referring to the amendment by its filing date, and any necessary surcharge. See MPEP 608.04(b). Since applicant has satisfied all the requirements, the petition is granted.

The file is being returned to Technology Center AU 1746 for examination in due course.

Telephone inquiries pertaining to this decision should be directed to Frances Hicks at (703) 305-8680.

A handwritten signature in cursive script, appearing to read "Brian Hearn".

Brian Hearn
Senior Petitions Examiner
Office of Petitions
Office of the Assistant Commissioner
for Patent Examination Policy